

REMARKS

Applicant has reviewed the prior art cited by the examiner, and the basis for rejection of claims 1-6 and 13.

Initially, applicant does cancel claims 7 through 12, and 14 through 53, pursuant to the restriction requirement, but does so with traverse, since it believes that all of the shown embodiments of this invention relate to the same inventive subject matter.

Claim 1 has been canceled, and consolidated with claim 2, and 6, with further structural amending, in order focus on the concept of this invention. Basically, the invention is to provide a sandal type shoe, having a sole, of sufficient thickness so that a slot can be formed therethrough, the slot is reinforced on its outer edges, laterally of the sole, so that a strap can be located therethrough. A strap that is formed into a continuous structure, and be turned, repeatedly, so as to disclose different coloration, aesthetics, trademarks, or the like, during usage and application. To accommodate the turning of the continuous strap, it normally will have a uniform width, throughout its continuous extent, so that it does not bind, because of varying widths, as it is shifted through the sole, to achieve that aesthetic change for the vamp strap for the shoe, as can be understood.

In this manner, it is believed that claim 54, newly added, defines a type of structural sandal, along with claim 13, which exhibits structure that can be manipulated in a manner that really has not been addressed previously, even in the prior art cited by the examiner.

Initially, the examiner cited the Pickens reference No. 2,343,701, as disclosing anticipatory prior art. But, the Pickens patent while disclosing a unique style of footwear, quite clearly states that its toe strap or instep strap 18 is initially drawn though its slot 21, and adhesively secured in position. Obviously, this is the way that most vamp straps, on sandals, have always been formed, once the ends of the strap are secured, by stitching, adhesive, or any other method, they

are then turned or located into the slot formed in the sole, usually beneath the sock liner, and then adhesively secured in position just as the Pickens reference defines. This is not the structure, nor functionality, of applicant's invention, nor can Pickens be manipulated to achieve the results of applicant's invention, as claimed. Hence, it is submitted that while Pickens may be similar, it just does not describe what is the essence of the current invention, as explained herein.

The examiner further cites the reference to Berg, et al, which is a published application No. 2002/0078600, for showing anticipatory subject matter under 102(b). Berg essentially shows and describes the use of a strap, in which its width dimension will vary, because all Berg wants to do is form a strap that has a pair of opposed ends, and a mid portion therebetween, such that when the strap is inserted through the shoe slot, it is pulled through the same, with its mid portion designed to be received in and retained by the slot. How this retention is obtained, does not appear to be described in this published reference, but essentially, this is just the concept for a shoe having an interchangeable strap system, where the mid portion is retained within the sole, but nothing in Berg defines that its strap, if made continuous, can be rotated through the sole, for the purpose of providing continuous change for the shoe vamp, through rotating of its strap, in the first instance. This is the function and results obtained from the particular structured strap of applicant's invention, and it is not believed that Berg shows that type of structure, nor does Berg even state that the strap may be shifted through its sole slot, in order to change the coloration or aesthetics of the shown shoe. Berg does define the use of a reinforcement 84 within its shoe sole, but it is used to reinforce within the slot 50 and does not provide any type of a reinforcement in the form of an insert, with a flange, that may be applied both within and externally of the lateral slots, within the sole, to achieve that type of reinforcement for a continuous strap that can be turned, and shifted through the slot, in order to vary the aesthetics, design, and colorations of the shoe vamp, during its usage, as can be attained from the current invention. Once again, it is submitted that while Berg, like Pickens, may show a shoe sole, a slot, and a

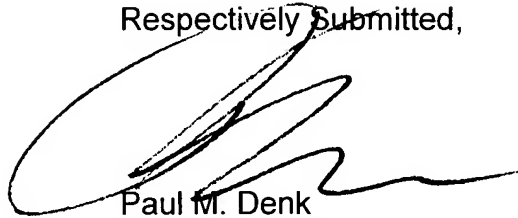
strap provided therein, they just are not constructed further in the manner as applicant's invention, nor can they function in the manner of applicant's invention, to attain applicant's results. Hence, it is submitted that anticipation is not truly presented by the Berg reference either.

Neither does Pickens or Berg even suggest towards the concept and principle of applicant's invention, within their disclosures.

The examiner further cites the Anderson, et al. reference No. 4,314,412, as anticipatory prior art. But, it is quite obvious, from the structure of the Anderson orthopedic shoe, which is a shoe showing a sole, having a slot 15 provided therethrough, and for accommodating the arch portion 17, it was never intended to provide for rotation of its arch portion through the slot, in the manner as claimed for applicant's invention. Anderson does define the use of a metal sleeve 30, extending entirely through its sole 100, but this is not desirable for the structure of applicant's shoe, since when used as a sandal, it is desirable to attain flexibility, during its usage, but yet have sufficient reinforcement formed from a flanged insert, at least at the outer edges of its sole slot, unlike what is shown and described in this Anderson reference. Hence, it is submitted that Anderson just does not show structure, that can function in the same way of applicant's invention, nor can Anderson obtain related results. Hence, it is submitted that Anderson, likewise, is not anticipatory of the claimed invention.

The examiner's further review of the amended claims of this application would be appreciated.

Respectively Submitted,

A handwritten signature in black ink, appearing to read 'P. Denk', with a large, sweeping loop at the beginning and a horizontal line at the end.

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Enclosure